

## **REMARKS**

The final office action dated May 11, 2007 (the "Office Action") has been received and noted. Claims 1-11 were examined. Claims 1-11 were rejected. Claims 1-7 are cancelled without prejudice. Claims 9-11 is amended to correct minor errors. As such, no new matter has been added. Claims 8-11 remain in the Application. Reconsideration is requested in view of the above-amendments and following remarks.

### **I. Claims Rejected Under 35 U.S.C. § 112**

Claim 9 was rejected under 35 U.S.C. § 112, second paragraph. Appropriate correction has been made. Accordingly, Applicants respectfully request withdrawal of the objection.

### **II. Claims Rejected Under 35 U.S.C. § 102**

#### **A. Claims Rejected as Anticipated by *Solazzi I***

Claims 1-3 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,009,766 to Solazzi ("*Solazzi I*"). Claims 1-3 and 5 are cancelled rendering this rejection moot. The cancellations are not made in view of the Examiner-cited references and Applicants therefore reserve the right to prosecute the cancelled claims in a continuing application.

#### **B. Claims Rejected as Anticipated by *Solazzi II***

Claims 1 and 6 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,409,854 to Solazzi ("*Solazzi II*"). Claims 1 and 6 are cancelled rendering this rejection moot. The cancellations are not made in view of the Examiner-cited references and Applicants therefore reserve the right to prosecute the cancelled claims in a continuing application.

C. Claims Rejected as Anticipated by *Fildes*

Claims 1 and 4 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,001,389 to Fildes (“*Fildes*”). Claims 1 and 4 are cancelled rendering this rejection moot. The cancellations are not made in view of the Examiner-cited references and Applicants therefore reserve the right to prosecute the cancelled claims in a continuing application.

III. Claims Rejected Under 35 U.S.C. § 103

A. Claim Rejected as Unpatentable over *Solazzi I*

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Solazzi I*. Claim 7 is cancelled rendering this rejection moot. The cancellation is not made in view of the Examiner-cited references and Applicants therefore reserve the right to prosecute the cancelled claim in a continuing application.

B. Claim Rejected as Unpatentable over *Solazzi I* in view of *Nelson*

Claims 1 and 8-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Solazzi I* in view of U.S. Patent No. 3,861,555 to Nelson (“*Nelson*”). Applicants submit that the cited references do not make obvious independent claim 8 and its respective dependent claims.

Specifically, the cited references do not teach or suggest all of the claim limitations of independent claim 8. Independent claim 8 includes the limitation of “providing a cover which is smaller than the opening and freely movable relative to the container walls on a free surface of the liquid sample.” (App., claim 8.) Representatively, the specification teaches that cover 13 “is not rigidly connected to the container wall 3” and “is freely movable relative to container wall 3.” (App., ¶ [00010].)

By contrast, *Solazzi I* discloses surface region 44 of thin film material 40 pulled taut across an open end 22 of cell body 12. (*Solazzi I*, col. 6, lns. 32-35; FIG. 4). A portion of the thin film material 40 becomes pinched between outside wall 26 of cell body 12 and interior wall 42 of annular collar 14. (*Solazzi I*, col. 6, lns. 26-28). In other words, surface region 44 of thin film 40 is fixed to the sides of cell body 12. As a result, surface region 44 of thin film 40 is not arranged

on a free surface of a liquid contained within cell body 12, but is rather pulled taut across the open surface region of cell body 12. Such a configuration does not allow surface region 44 of thin film 40 to move up and down on the liquid surface. Thus, *Solazzi I* does not teach or suggest every element of independent claim 8. *Nelson* does not cure this lack of teaching or suggestion because *Nelson* teaches a pontoon-supported deck which can move laterally in a tank. (*Nelson*, col. 1, lns. 35, 40.) Unlike Applicants' claimed invention, the deck is not "freely movable," but, instead, includes a flexible sealing member 30 "with its outer edge portion engaging the side of the tank." (*Nelson*, col. 3, lns. 5-11; claim 1.) As a result, the deck is contact with the tank and is therefore not freely movable. Accordingly, the cited references do not teach or suggest all of the limitations of independent claim 8.

Moreover, Applicants submit that *Nelson* is non-analogous art. A prior art reference is only analogous if (1) the reference is in the field of applicant's endeavor or, (2) the reference is reasonably pertinent to the particular problem with which the inventor was concerned. MPEP § 2141.01(a). Independent claim 8 is directed to a method for the analysis of liquids by means of X-ray spectrometry. (App., claim 8.) Accordingly, the field of Applicants' endeavor relates to laboratory methods. On the other hand, *Nelson* is concerned with large, volatile liquid-containing tanks large enough for a workman to work within. (*Nelson*, col. 1, ln. 16.) Moreover, the particular problem with which Applicants are concerned is more accurate and faster X-ray analyses by reducing convection of a liquid sample. (App., ¶ [0009], [00013].) On the other hand, the particular problem with which *Nelson* was concerned was to eliminate air space above volatile liquid in a large tank to control evaporation which would otherwise cause loss of the volatile liquid and cause air pollution. Thus, *Nelson* is not in the Applicants' field of endeavor and is not reasonably pertinent to Applicants' problem of accurate and fast X-ray analysis. Accordingly, *Nelson* is non-analogous art.

Dependent claims 9-11 are dependent on independent claim 8 and therefore include all of the limitations thereof. Accordingly, Applicants submit that independent claim 8 and its respective dependent claims are allowable over the cited references.

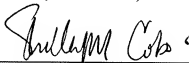
### CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 500-4787.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP


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#### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on July 10, 2007.

  
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